

DATE ISSUED: November 9, 2004

REPORT NO. PC-04-192

ATTENTION: Community Planners Committee, Agenda of November 23, 2004

SUBJECT: SINGLE ROOM OCCUPANCY HOTEL REGULATIONS.
PROCESS FIVE.

APPLICANT: City of San Diego

SUMMARY

Issue: Should CPC recommend adoption of amendments to the Municipal Code adjusting existing regulations and expanding development incentives regarding Compact Living Units, also known as Single Room Occupancy Hotels, and Living Units?

Staff Recommendations:

1. Recommend that the City Council **Certify** an Addendum to the Land Development Code Environmental Impact Report.
2. Recommend that the City Council **Adopt** the new Compact Living Unit regulations City-wide, which require amendments to Chapters 10, 11, 12, 13, 14, and 15 of the Municipal Code.

Other Recommendations:

Centre City Development Corporation - On September 8, 2004, the Planning Committee of the Centre City Development Corporation (CCDC) voted to approve the following recommendations:

1. Eliminate parking requirements for new Compact Living Unit projects (CLU's) built on small lots of 5,000 square-feet or less, or those containing units restricted to extremely low-income persons at or below 40 percent area median income. (This has been incorporated into the staff recommendation).
2. Establish a credit system to allow builders who add CLU's to the inventory to demolish or convert other units without penalty. (This has not been incorporated into the staff recommendation).
3. Increase the City's minimum threshold inventory over time to reflect population growth and housing need. (This has not been incorporated into the staff recommendation).
4. Remove the cap on tenant relocation assistance. (This has been incorporated into the staff recommendation).

5. Eliminate the option for builders to pay a fee in lieu of providing replacement CLU housing units, if permitted by law. (This has not been incorporated into the staff recommendation).

Land Use & Housing Committee – On September 15, 2004, the Land Use and Housing Committee (LU&H) took the following actions:

1. Eliminate parking requirement in downtown for CLU's restricted to rents affordable to extremely low income tenants earning 40% area median income or less. (This has been incorporated into the staff recommendation).
2. Revise the incentive of water/sewer capacity fee reductions based upon affordability tiers provided for parking requirements in Center City, reducing fees for units restricted to extremely low income rents to the maximum extent legally permissible. (This has been incorporated into the staff recommendation).

In addition, the Committee asked staff to study the following issues:

- a) Impacts of expanding permissible zones for CLU's to include neighborhood commercial zones. (This has not been incorporated into the staff recommendation).
- b) Requiring that replacement units be "like" units in terms of affordability to those actually demolished. (This has not been incorporated into the staff recommendation).
- c) Increasing the amount of the in lieu fee. (This has not been incorporated into the staff recommendation).

A number of other issues were discussed, but there was neither a vote nor a consensus on them, including:

- a) Whether to have a credit system (not explored, because members did not agree on concept of a "threshold");
- b) Removal of the relocation cap. (This has not been incorporated into the staff recommendation).

Environmental Review: An addendum to the Land Development Code Environmental Impact Report has been prepared for these amendments in accordance with the California Environmental Quality Act.

Fiscal Impact: None.

Code Enforcement Impact: None

Housing Impact Statement: The proposed regulations are intended to provide assistance to very-low and low-income tenants who will be displaced by the demolition,

conversion, or rehabilitation of existing CLU's; to encourage retention of existing CLU's and expand the overall supply of housing stock for low-income residents.

BACKGROUND

Single Room Occupancy Hotels (SRO) or Residential Hotels provide some of the City's most affordable housing inventory. Traditionally, this housing stock has served the most vulnerable and lowest income brackets of our City's residents, including those on fixed incomes such as seniors and disabled individuals. The City of San Diego has had some form of SRO regulations on the books since 1977. However, it was not until 1985 that the regulations took a form similar to those that the City administers today. The SRO ordinance has been amended several times since that date, most recently in 2000. The primary features of the ordinance have remained consistent, including the requirement that residential hotel rooms be replaced upon conversion or demolition, and a requirement to provide relocation assistance to tenants residing within the property upon its conversion, demolition, or rehabilitation.

The legal environment within which residential hotels are regulated has changed in recent years and continues to change with pending litigation and state legislative reforms. Recent legal interpretations of SRO ordinances have prompted a reexamination of the existing Municipal Code provisions governing the loss of SRO rooms. Specifically, the Ellis Act (Gov. Code § 7060 et seq.) established that owners of residential rental properties could choose to go out of business but it also allowed for local jurisdictions to regulate the removal of residential rental stock from the existing inventory. In 2003, AB 1217 amended the Ellis Act to allow for certain residential rental properties (namely, residential hotels) to be regulated by municipalities.

In order to bring the City's ordinance in conformance with the Ellis Act and AB 1217, the Municipal Code was amended by City Council action on August 3, 2004. These minor revisions however only represented the minimum changes needed and did not represent a more in depth analysis of the SRO policies contained in the draft ordinance. During the August 3 City Council discussion, Protection & Advocacy, Inc. raised several issues related to both the Ellis act and AB 1217 and their effects on the City's ordinance. The City Attorney has addressed the concerns of Protection & Advocacy, Inc. in the attached City Attorney's Memorandum (Attachment 2).

In consideration of the current economic environment and worsening deficiency of low-income housing, it has become apparent that simply amending the existing SRO regulations would not ensure a sufficient stock of SRO rooms. For that reason, the San Diego Housing Commission, Centre City Development Corporation, and City staffs convened a Residential Hotel Working Group to discuss the development of a comprehensive work plan to address the need for both construction and preservation of Residential Hotels. Other Working Group participants included community representatives, for-profit and non-profit developers, advocates, social service providers, and homeless service providers.

During the summer of 2003, after over six months of planning, discussion, and negotiation, the Working Group reached consensus on a comprehensive Work Plan and framework for amendments to the SRO Regulations. This agreed upon Work Plan was scheduled for a September 20, 2003 Land Use and Housing Committee hearing. Immediately prior to the Land Use and Housing Committee hearing the consensus previously attained by the Working Group collapsed, and significant divergent testimony was provided. Nevertheless, on September 20,

2003, the Land Use and Housing Committee directed City staff to return with draft SRO ordinance amendments consistent with the Work Plan.

Over the past several months City staff together with the City Attorney's Office, the Housing Commission, and the Centre City Development Corporation (CCDC) have met to review, discuss, and build upon the Working Group's previous efforts. In addition, both the Planning Committee of CCDC and the Land Use and Housing Committee (LU&H) have reviewed and formulated recommendations regarding the draft CLU ordinance. Due to the complexity of the draft regulations, and the variety of differing recommendations, a matrix has been created (see Compact Living Unit Regulation Recommendations matrix) to simplify and facilitate the discussion of the new regulations.

DISCUSSION

Fully implementing the Work Plan will require numerous major and minor amendments to the City's Municipal Code, and includes a complex set of new and revised regulations, drafts of which are included in this package. This section summarizes the principal components of the new regulations that were formed through lengthy discussion among Working Group members, staff from the Development Services Department, Housing Commission, and CCDC, community representatives, developers of residential hotel rooms, the Planning Committee of CCDC, and the Land Use and Housing Committee.

Compact Living Units and Living Units: Traditionally, the land use designation of low rent residential hotels has been Single Room Occupancy Hotels (SRO). However, the Working Group discussions included concerns of public perception and the ability to access financing if the stock were to remain classified as SROs. Thus, staff is proposing the creation of the "Compact Living Unit" (CLU) instead of "SROs." New regulations would ensure consistency with State regulations, in that the definition of the CLU would specifically include a reference to the State law criteria for Residential Hotels.

After lengthy staff discussions, it was agreed that the separately defined residential use called the Living Unit should be retained in downtown residential areas. Downtown would, therefore, have two small unit development types: a commercial use (the CLU) and a residential use (Living Units). This would facilitate development in the predominantly mixed use zones (80% residential/20% commercial) in much of Downtown. As an incentive, it is proposed that the current Living Unit ordinance be amended to eliminate the ceiling of three Living Unit developments, simplifying the regulations and reduce the approval process from a Conditional Use Permit to a Process 2 Neighborhood Permit process. The Downtown community update plan proposes the use of Living Units in any zone in the Downtown area.

Citywide it is recommended that CLU's become a permitted use in those same zones where SRO's are currently allowed, which includes commercial and high density residential zones where Visitor Accommodations are allowed. SROs are currently allowed in approximately 25 City-wide zones and in 20 Planned Districts. As a "limited use", the recommended ordinance clarifies that CLU's would be allowed by right. The physical form of CLU's is also described in the proposed ordinance. The size of CLU's is recommended to remain the same as SRO's (between 70 and 220 square-feet). These characteristics, combined with limitations on requiring full bathrooms, reduced water and sewer fees, and decreased parking requirements, are

anticipated to add developer flexibility while maintaining naturally affordable units without the need to impose rent restrictions.

Incentives: Incentives to expand the supply of small unit development would include an expansion of the areas where Living Units would be allowed downtown, as well as a simplification of the discretionary permit review process for Living Units downtown. In addition, parking requirements and water and sewer fees would be reduced.

Parking: The current parking requirement for SROs differs depending on where the unit is located. Downtown, the current parking ratios are 0.2 spaces for every SRO unit and 0.7 spaces per Living Unit. As of the drafting of this report, the Downtown Community Plan Update is anticipated to include a recommendation to increase parking requirements for all development to afford one full parking space per dwelling unit.

The Working Group suggested retaining 0.2 spaces for CLUs, with provisions to further reduce the parking requirement, conceivably to zero. Staff, the Planning Committee of CCDC, and LU&H have reached consensus on new parking requirements for both Living Units and CLU's. The draft ordinance contains the following parking requirements downtown:

Parking Requirements Downtown

Non rent- restricted Units:	0.5 Spaces/Unit
Units at 60% AMI or less:	0.3 Spaces/Unit
Units at 50% AMI or less:	0.2 Spaces/Unit
Units at 40% AMI or less:	0 spaces required

Outside of downtown, the parking ratios required of CLU's remains unchanged. The parking requirement is 1 space per unit unless the unit is rent restricted or located in a Transit Area Overlay Zone (TAOZ), then the ratio is cut in half to 0.5. If the unit is both rent restricted *and* located in a TAOZ, then the parking ratio is reduced further to 0.25 spaces per unit.

Water and Sewer Fees – On September 14, 2004, LU&H recommended revising the incentive for water/sewer capacity fee reductions based upon affordability tiers, similar to those provided for parking requirements downtown. The Committee recommended that the fees for units restricted to extremely low income rents be reduced to the maximum extent legally permissible. Therefore, the water/sewer fee reduction recommendation for CLU's and Living Units is as follows:

Water/Sewer Fee Reductions

\$3,000/edu – non rent-restricted units.
\$2,000/edu – 60% AMI or less.
\$1,000/edu – 50% AMI or less.
\$500/edu – 40% AMI or less or less.

Replacement Housing Provisions: The City's existing SRO Hotel regulations require a property owner to either replace SRO rooms that are removed from the market or pay an in-lieu fee equal to 50 percent of the replacement cost. Recent amendments to the Municipal Code clarified that

this replacement provision only applies to residential hotels built prior to 1990. The new Ordinance would revise the requirement to include one for one replacement for pre-1990 residential hotels only when the supply of CLU's and Living Units drops below an established threshold.

The proposed Municipal Code amendments to the existing regulations will establish a mechanism for measuring and setting goals. In order to accomplish this, it will be necessary to establish a base inventory of existing residential hotels so future progress can be measured. No fool-proof process to establish the base inventory emerged after extensive discussions. However, the recommended method for establishing the base inventory would begin with the list of SRO hotels maintained by the City staff. An appeal process would be established to allow property owners to have an opportunity to demonstrate that, despite being identified as an SRO previously, they do not meet the definition of a CLU project today. This methodology is described in greater detail in section 143.0535 of the Ordinance.

The base inventory established through this process is recommended to serve as a threshold. The City's Development Services Department in conjunction with the Housing Commission will monitor construction of CLUs and Living Units as well as demolition of units in the inventory. In the event that the total stock of SROs, CLUs and Living Units falls below the threshold at any time, replacement requirements for pre-1990 residential hotels would be triggered. It is important to note that, although CLUs and Living Units would be included in the process of establishing a threshold and inventory list, due to the Ellis Act property owners would not be required to replace any units built after 1990.

Replacement CLU's shall be provided within the same community planning area where the demolition or conversion has occurred, unless the San Diego Housing Commission approves alternate sites on public transportation corridors outside the community plan area. Replacement compact living units shall be provided at a ratio of one replacement unit for each existing compact living unit demolished or converted occupied by a low income tenant, or rented at rates affordable to a low income person, at any time in the 180 days preceding the permit application. Replacement compact living units shall be made available to and occupied by very low income households at rates affordable to very low income, single person households.

Relocation Assistance Benefits: Each tenant displaced by the demolition or conversion of a CLU is entitled to: 1) a lump sum moving expense payment of \$575 for a tenant who owns furniture or \$375 for a tenant who does not own furniture, subject to adjustment from time to time in accordance with State Relocation Law; and 2) a lump sum for replacement housing in an amount equal to six months rent, calculated based upon the highest one month rent paid by the tenant the one year period immediately preceding the Notice of Termination of tenancy. In addition, each tenant would receive technical assistance to monitor the applicant's compliance with the relocation requirements and provide assistance to help tenants in their relocation.

Rehabilitation of Older SROs: It has been noted that some properties in the current stock of older SROs are in poor physical condition. In order to provide an incentive for repairing older buildings, CCDC and the Housing Commission are considering the allocation of tax increment funds and inclusionary housing in lieu fees for a new rehabilitation loan program. Low interest loans would be made available to owners wishing to upgrade their properties and rent to eligible households. Staff recommends prioritizing properties of historic significance.

Conclusion:

The ordinance amendments recommended by staff are intended to preserve, rehabilitate, and construct safe and affordable housing for individuals at the lowest income levels, such as those on fixed incomes, and to ensure consistency with State regulations governing residential hotels.

The purpose of these new regulations is to provide assistance to displaced very-low and low-income tenants, to ensure the retention of existing very low and low-income Compact Living Units through CLU developer incentives and the maintenance of a unit threshold, and reductions in development regulations that have the potential to create naturally affordable units. In summary, these new regulations incorporate the following:

- A. Relocation assistance and moving expenses in lump sum payments to displaced tenants;
- B. All demolished/converted low-income units must be replaced with very-low income units;
- C. All new CLU projects must set aside 10% of the units at 50% AMI;
- D. All affected tenants receive notice of application & benefits, and technical relocation assistance.
- E. The current number of very low and low-income CLU's City-wide will be retained through the Ordinance's unit threshold component.
- F. CLU's are allowed City-wide in all zones that allow "visitor accommodations";
- G. CLU's are restricted in size (70-220 square-feet), and no use-permit is required;
- H. Within CLU projects, bathrooms are limited to 50 percent of the non-rent restricted units;
- I. Reductions in parking requirements including 0 parking for extremely low-income units;
- J. Reductions in water and sewer fees based on affordability levels;
- K. Developers may pay fees in-lieu of replacing units; replacement exemptions may be granted by the City Council for redevelopment projects; replacement waivers may be granted by the City Council for projects with substantial financial hardship where no alternative means of compliance are available